

Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Department of the Treasury

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Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

LEGEND

UIL LIST:  
4942.03-07

x = Amount of set-aside  
U = Date of set-aside  
V = Name of Grantee Institute  
M = Name of Disease  
S = Name of Doctor  
y = Disbursement for years 1 through 4  
z = Disbursement for Year 5

Dear

This is in response to your December 9, 2011, letter requesting approval of a set-aside under Internal Revenue Code section 4942(g)(2). You've been recognized as tax-exempt under section 501(c)(3) of the Code and have been determined to be a private foundation under section 509(a).

**Description of set aside request**

You have requested a set-aside of \$x for the tax year ending U to fund V's work to develop a cure for M. The grant shall be employed exclusively to support research of M through a collaborative national multi-phased effort led by S, the President of V. The funding for a given year may be disbursed by the foundation in one or more payments over the year of support. The nature and purpose of the research project will include an annual conference, a national grants component, and advanced scientific research. Funding is contingent upon S leading the national multi-center effort. Funding shall not be used for the following:

- General institutional expenses.
- General fundraising campaign expenses such as dinners and mass mailings.
- As a contribution to unified funds or to a pooled fund that is itself used to award grants of any kind except as specified.

- Social science, religious, political, or other research that does not fall within your areas of interest.

The set-aside will be disbursed within 60 months of the date of the set-aside. You closely monitor V's use of your funds: they must submit annual progress reports to you, and you can cause an independent audit to be performed on their accounts at any time during the term of the grant.

The annual conference will bring together leading scientists from around the nation to discuss the development of a cure for M. The funding you will provide for V's program is expected to stimulate larger grants from other sources. Disbursements from the set-aside will be \$y a year for each of years 1 through 4, and \$z for year 5.

You plan to provide additional funding to V for the same project. However these are not additions to the set-aside for this project which is \$x.

The project can be better accomplished by a set-aside than by an immediate payment of funds because, on the one hand, development of treatments in biomedical research can only be achieved in an extended timeframe, and on the other hand, there must be strict accountability for the grantee's use of the funds it receives. A truly integrated, highly functional, multidisciplinary team takes a minimum of five years to achieve maximum efficacy. The meeting of regulatory requirements also demands a substantial amount of time. As a result, breakthroughs can take ten years or more from inception to trial. This being so, a commitment to support efforts to develop a cure for M over the long term is required. Therefore to ensure that the research team remains accountable, it is important that they submit annual progress reports which will be the basis of continued funding over the 60 month term of the project.

## Law

Internal Revenue Code section 4942(g)(2)(A) states that an amount set aside for a specific project, which includes one or more purposes described in section 170(c)(2)(B), may be treated as a qualifying distribution if it meets the requirements of section 4942(g)(2)(B).

Section 4942(g)(2)(B) of the Code states that an amount set aside for a specific project will meet the requirements of this subparagraph if, at the time of the set-aside, the foundation establishes that the amount will be paid within five years and either clause (i) or (ii) are satisfied.

Section 4942(g)(2) (B)(i) of the Code is satisfied if, at the time of the set-aside, the private foundation establishes to the satisfaction of the Secretary that the project can better be accomplished using the set-aside than by making an immediate payment of funds.

Section 53.4942(a)-3(b)(1) of the Foundations and Similar Excise Taxes Regulations provides that a private foundation may establish a project as better

accomplished by a set-aside than by immediate payment of funds if the set-aside satisfies the suitability test described in section 53.4942(a)-3(b)(2).

Section 53.4942(a)-3(b)(2) of the Foundations and Similar Excise Taxes Regulations provides that specific projects better accomplished using a set-aside include a plan to fund a specific research program that is of such magnitude as to require an accumulation of funds before beginning the research.

Section 53.4942(a)-3(b)(7)(i) provides that a private foundation must obtain Internal Revenue Service approval of its set-aside of income under the suitability test by applying before the end of the tax year in which the amount is set aside.

### **Analysis**

You have sought timely approval of your set-aside of income in accordance with Section 53.4942(a)-3(b)(7)(i).

As required by section 4942(g)(2)(A) of the Code your proposed set aside will be used to accomplish purposes described in section 170(c)(2)(B) namely for scientific research purposes.

As required by Section 53.4942(a)-3(b)(2) of the Regulations your proposed set aside will be used to fund a specific research program that requires an accumulation of funds before beginning the research.

As required by section 4942(g)(2)(B) (i) of the Code and Section 53.4942(a)-3(b)(1) of the Regulations you have established that the amount set-aside for this specific project will be paid out within 60 months.

Your project is one that can better be accomplished by the set aside of income rather than by the immediate payment of funds. Like the example in section 53.4942(a)-3(b)(2) the project you have undertaken is of such magnitude as to require an accumulation of funds before beginning the research. Your project therefore satisfies the suitability test as set forth in section 4942(g)(2)(B)(i) of the Code and section 53.4942(a)(3)(b)(2) of the Regulations.

### **Ruling**

Based on the information furnished, your set-aside program is approved under Internal Revenue Code section 4942(g)(2). As required under section 4942(g)(2), the set aside amount must be paid within the 60-month period after the date of the first set-aside.

Your approved set-aside(s) shall be evidenced by the entry of the dollar amounts

involved on your books and records as pledges or obligations to be paid by the date specified. The amounts set aside will be taken into account to determine your minimum investment return under Internal Revenue Code section 4942(e)(1)(A), and the income attributable to your set aside(s) will also be taken into account in computing your adjusted net income under section 4942(f) of the Code.

This ruling is based on the understanding there will be no material changes in the facts upon which it is based. Any changes that may have a bearing on your tax status should be reported to the Internal Revenue Service. This ruling does not address the applicability of any section of Code or regulations to the facts submitted other than with respect to the sections described.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This determination is directed only to the organization that requested it. Internal Revenue Code section 6110(k)(3) provides that it may not be used or cited as a precedent.

Please keep a copy of this ruling letter in your permanent records.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Lois Lerner  
Director, Exempt Organizations

Enclosure: Notice 437  
Redacted copy of approval letter